
UTAH LABOR COMMISSION

R. MICHAEL O'HALLAREN,

Petitioner,

vs.

**QUALITY WHOLESALE HOMES and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER ON REMAND FROM
UTAH COURT OF APPEALS**

Case No. 02-0637

On November 17, 2007, the Utah Labor Commission affirmed Judge Sessions' dismissal of Mr. O'Hollaren's claim for workers' compensation benefits "with prejudice." Mr. O'Hollaren then filed a petition for appellate judicial review of the Commission's decision with the Utah Court of Appeals. In his petition for review, Mr. O'Hollaren asserted that the Commission should have dismissed his claim "without prejudice."

While Mr. O'Hollaren's petition for review was pending before the Court of Appeals, the parties participated in mediation conducted by the Court of Appeals' Appellate Mediation Office. As a result of that mediation, the parties entered into a stipulation that included the following material terms:

The parties to the above-entitled proceeding have amicably resolved the issues raised therein. Specifically, the parties stipulate that the Utah Labor Commission will modify its order dismissing Mr. O'Hollaren's claim for workers' compensation benefits from a dismissal "with prejudice" to a dismissal "without prejudice," so that Mr. O'Hollaren may refile his claim for workers' compensation benefits with the Commission at a later date, subject to the conditions, requirements and other provisions of the Utah Workers' Compensation Act. The parties further agree that Mr. O'Hollaren's petition for review in this matter, currently pending before this Court, should be dismissed.

The Court of Appeals accepted the parties' stipulation, dismissed Mr. O'Hollaren's petition for review, and remanded Mr. O'Hollaren's case to the Commission for entry of an order dismissing Mr. O'Hollaren's claim without prejudice.

Now, pursuant to the parties' stipulation and the Court of Appeals' order, the Commission enters the following amended order in this matter.

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ORDER

The Commission affirms Judge Sessions' dismissal of Mr. O'Hollaren's claim, but modifies the nature of that dismissal from "with prejudice" to "without prejudice" Mr. O'Hollaren may refile his claim for workers' compensation benefits with the Commission at a later date, subject to the conditions, requirements and other provisions of the Utah Workers' Compensation Act. It is so ordered.

Dated this 1st day of May, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.